App. F. IX-4

Previous References

1938-30
Law

File No. 147-29
Serial Nos. 1-4

Later References

Secy Dept 1123/32
Bundle 79-82
Secy 734(8)

Preserve
M. 1.12

General and Revenue Secretariat.

Serial Nos. Nos

Part B for Dec 1930.

SUBJECT.

Enquiry from the D.P.O whether there is any moral turpitude involved in the act of one Doddaiya, Asst master, Primary School Hirehalli in which he was convicted & sentenced to 3 days imprisonment

4. To the D.P.O.
No. 3202/6.12.30
Replies in the affirmative & adds that he fully deserves the dismissal from service

By Regular 10/12/30

[redacted] Case File No. 147 of 1929.

Serial No.

Letter no 3891-249 dated 29 March 30 from the Dir of Pub: Instr forwarding copy of memo by the Sessions Judge Shimoga in the case against one Doddia Asst master, Pr: School, Hirehalli & enquiring whether there is any moral turpitude involved in the act of the person for which he was convicted & sentenced to 3 days impt.

.) Doddia, the asst master of Primary School, Hirehalli who is also doing the duties of a Branch Post master was prosecuted on the complaint of one Gangadhra for house trespass at night with intent to commit theft or hurt. The accused admitted that he was present at the complainants' house on 15.3.29 at about midnight but that he was to be present only on being invited by the complainant to settle up certain longstanding disputes between the parties & that having opportunity of the accused's presence in the house, the complaint & some others beat him & tied him up with a rope to a pillar, put up a jewel in his pocket & detained him during the whole night & forged this false case

Serial No.

on him – The Magistrate disbelieved the prosecution story completely, but yet convicted the accused with one years R.I. & a fine of Rs 200/- ~~him~~ the accu under sec 448 I.P.C. for house trespass with intent to annoy, since the accused was admittedly present at an odd hour of the night in the Complainant's house & the accused could not explain why he was there the Magistrate having disbelieved the accused story also -

2) The sessions judge ~~has~~ concurred with the findings of the magistrate, but came to the conclusion that the punishment inflicted was ~~out of~~ all proportion to the offence committed & reduced it to 3 days R.I. the period which the accused had undergone already in jail -

3) DW9, the Sub asst Surgeon, who examined the accused ~~after~~ on the third day of the incident speaks to the slight injuries on the accused's person - DW10, the Asst Inspector of Edn, speaks to the accused being in the School & delivering tappal to him at 10 P.M on the day of the occurrence He also says that the accused took the

7) ✕ Not completely but only in regard to the charge of trespass which appears to have been concocted, possibly on account of the complainant's disinclination to disclose the real object of the accused's visit to his house

Note—Contn. Sheet

Serial No.

Inspector's permission to go on account of somebody calling him — His evidence is said to be of no value since he did not observe who it was that called — DW4 — Sanaga, a manager speaks to his calling the accused as he was wanted by the complainant on the night in question — & DW11 — a co-teacher corroborates the manager in this respect —

4) A bid between the parties is admitted & found true by both the Magistrate & the Sessions Judge. The accused is said to be "an inexperienced youth of 23" —

5) A careful perusal of the judgment in the Appeal throws doubt on the ~~validity~~ correctness of the conviction itself. Moreover "the intention to annoy or to cause annoyance" a necessary ingredient in the offence under sec 448 — is presumed on the authority of certain rulings of the Chief Court (17 PLR 192 & 66 PLR 27)

6) Under these circumstances, & in view of the fact that it is at best an act of indiscretion on the part of the accused, he cannot be held to have been guilty of an offence involving

8) The presumption ~~was~~ in the ~~case~~ ~~of this~~ nature was perfectly justified in the circumstances noted at A in paragraph 8 of the judgment

8/4

Note—Contn. Sheet

General and Revenue Secretariat — File No. 147 of 1929.

Serial No.

(9)

No opinion can be formed either way regarding the accused's moral turpitude, when the intention with which he entered the complainant's house at midnight being a mystery.

moral turpitude, necessitating his removal from post service. The Sessions Judge thinks that the result of the conviction would probably be the loss of the appointment held by the accused & takes this as a mitigating circumstance in awarding sentence - Reading however sub-para 2 of para 9 of the proposal, the accused appears to be more sinned against than a sinner -

5/4/30

(10) A public servant guilty of an offence "involving moral disgrace" is liable to be dismissed. The question raised by the Dir. of P.I. in the present case is whether the ~~school master~~ offence of house-breaking of which the school master has been convicted is such an offence on the facts found ~~by the Trial Court~~ by the Trial Court & the Appellate Court, it is not possible to give a categorical answer to this question. The school master owed an explanation for his presence in the Complainant's house at midnight. The

Para 255 Manual of Govt. Circulars & Standing Orders. Pt. I.

Note—Contn. Sheet

47 & 5

App. F. III—2]

General and Revenue Secretariat | File No. | of 192

Serial No.

Explanation he offered was disbelieved by both the Courts, not without reason, and so was also the charge of theft imputed to him by the complainant. What prompted him to enter the complainant's house is thus left undiscovered and in the absence of a judicial finding on this point no opinion can be ventured as to whether any moral disgrace is involved in the arrest or not. The Officer might have cleared his character by moving the Chief Court in revision & securing an acquittal if he could

Secy) 9/4/30

11) This is an unnecessary case. There is no point of law involved. But the D.P.P. may be requested to send a copy of the Magistrate's judgment with copies of depositions, if available

9/5

Draft put up

12/5 — 13/5

2 To the Dir of P.P.

Note—Contn. Sheet

P 6389 Dated 15.5.30

WD 966—GPB—80,000—26-7-29

Calling for a copy of the lower Court's judgment and depositions

Sris A

16/5

General and Revenue Secretariat. File No. of 192

App. III

Serial No.

Refg no. A2 3891/247 d 14th Oct 1930 from the Director of P.I.D. stating that the Copies of judgments and depositions re: the liability of Doddaiya, School master, sent by Dr. E.O. offer Chitaldrug being defective, have been forwarded to Central record for retransmitting them after Comparison, and the same will be sent in receipt from the records.

The Copies may be awaited

TSD 17/10

for perusal. Refee para 11 above

Legal R^r

17.10

D. M. 28/10

See A

TSD 3/11

Letter no 2 - 3891-247/29-30 d 6.11.30 from the Dir^r of Public Instr^n forwarding Copies of judgment and depositions re: to the liability of Doddaiya Asst. master.

For perusal. Refee. para 11 above.

TSD 7/11

Legal R^r

8/11

The gist of the statements that the accused raised a false defence which was disbelieved by the Lower Ch

Note—Contn. sheet.

WD 066—GPB—80,000—26-7-29

Serial No.

and the Sessions Judge & that he convicted has been held to be correct. ~~the case~~ The sentence already undergone has also been taken into Consideration in reducing the sentence. The reasons for his presence at midnight in his neighbour's house was such that could not be disclosed & for which he was ashamed.

If such conduct leading to conviction cannot be involve moral turpitude as thought by the D.P.P., it is difficult to conceive what would.

The Sessions Judge assumes in the judgt. itself that the accused will be dismissed from Service.

There shd be no hesitation to hold that accd was guilty of gross moral turpitude & that he deserves to be dismissed from Service.

A reply may be sent

D.M. 21/4

Dft puts up accordingly

TSD 24/4

Typed draft, please

DMP 24/4

Typed dft is put up.

TSD 25/4

for approval

D.R.) Agreed DMP 25/4

DMP 25/4

NOTE—Contn. Sheet.

WD 02653-G FB—50,000—[illegible]

To

B

TSD
9/11

1 4748 Dy

Postal Address:—POST BOX No. 6.
Tel. Address:—EDUCAGEN, Bangalore.

Department of Public Instruction.

Government of Mysore.

No. A_2. 3891-249 of 29-30.

OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION IN MYSORE,

ENCL. One.

Bangalore, dated... 29 MAR 1930 *19*

Law 147 4 1

FROM

N. S. SUBBA RAO, ESQ., M.A., BAR-AT-LAW.,
DIRECTOR OF PUBLIC INSTRUCTION IN MYSORE,
BANGALORE.

To 1/4 Law 1/4

P. Mahadevayya, Esq., B.A., B.L.,
Secretary to the Govt. of Mysore,
Law Department, Bangalore.

SIR,

I have the honor to state that Doddaiya, Assistant Master, Primary School, Hirehalli, Challakere Taluk, pay Rs.15/- service from 18th September 1924 who was also Branch Post Master of the place was convicted for house-trespass under Section 448 I.P.C. by the Special First Class Magistrate, Chitaldrug and sentenced on 12th October 1928 to one year's rigorous imprisonment and a fine of Rs. 200/-. But before he was enlarged on bail by an order of the Sessions Court, Shimoga he underwent 3 days' imprisonment which is stated to be due to the advent of the Dasara holidays of 1928. In the appeal, the Shimoga Sessions Judge held that the conviction of the accused was correct, but modified the sentence of the lower Court and reduced it to one of rigorous imprisonment only, restricting the term to three days during which the accused had already suffered imprisonment before he was enlarged on bail. A copy of the judgment of the Shimoga Sessions Judge is enclosed herein for perusal. I do not consider that conviction for an offence of the character referred to in the case involves moral turpitude.

I request you to be so good as to favour me with your opinion as to whether the offence is such as would necessitate the removal

of the person from Government service.

I have the honor to be,

Sir,

Your most obedient servant,

N. S. Subba Rao

Director.

CS1.

In the Court of Sessions, Shimoga Division, Shimoga.

Dated the 21st day of June 1929.

Present:- B.R. Krishnamachar, Esquire, B.A., B.L.,

Sessions Judge.

Criminal Appeal No.5 of 1928-29.

Appellant:

(From Chitaldrug District) against the conviction and sentence passed by the Special Ist Class Magistrate Chitaldrug in C.C.No.12 of 28-29 on the file of his Court, under Section 448 Indian Penal Code.

Doddaiah, (Accused.).

(Preamble).

The appeal memo was filed on 15th October 1928 and the grounds of appeal are:-

1. That the Lower Court erred in Law. in the appreciation of evidence and in weighing the probabilities of the case in holding that the appellant had not satisfactorily explained how he came to the complainant's house at the time about 9:30 P.M. in question, and that as such he had committed the offence of house-tresspass punishable under Section 448. I.P.C. for which he has now been convicted.

2. That the Lower Court having disbelieved and rejected the story of theft alleged by the prosecution erred in holding the appellant guilty of house-tresspass under Section 448 I.P.C. on the ground that no intention need be proved, and no proof need be given as to how and by what means the accused entered the house.

3. That the evidence on record will clearly show that the appellant did not go to the complainant's house with any bad intention to commit any offences, and cause annoyance, etc., to the inmates of the house, but on the other hand he went there on invitation to mediate and settle the land dispute between the complaint and Bur Obbayya, uncle of the accused as stated by him.

4. That the reasons assigned by the Lower Court for believing the evidence of the Prosecution witnesses and for disbelieving the evidence of the Defence witnesses and for convicting the appellant are not sound and satisfactory.

5. That the Lower Court erred in taking into consideration the evidence adduced in the other case (O.C.No.132 of 27-28) and basing the judgment on that evidence also which has seriously prejudiced the appellant and caused failure of justice in both the cases.. For this reason the decision and conviction are not legal and sustainable.

6. That the defence witnesses are all respectable and disinterested persons, and the reasons assigned by the Lower Court for disbelieving their evidence are not sound and satisfactory.

7. That the evidence adduced on behalf of the Prosecution is discrepant, interested and not worthy of belief.

8. That the evidence on record will show that the appellant is innocent and has committed no offence at all, and that the conviction is not sustainable both in Law and facts.

9. That, at any rate, the sentence of rigorous imprisonment and fine passed by the Lower Court is too severe and excessive.

10. That the decision and conviction are against law, weight of evidence and probabilities of the case.

Judgment.

1. The accused Doddaiah is a youth of about 23 years and belongs to Myasa Naiker community. He is a resident of Hirehalli in Challakere Taluk, and was the post-master as well as a school-master there.

Complainant Gangappa is a Lingayet ryot and a trader residing in the same village. Himself, his wife, his brother - Channabasappa (P.W.3) and his wife, their mother, and some children are the inmates of his house. The accused is his neighbour.

2. Prosecution story is that at about midnight on - 15th March 1927 (Tuesday) when there was moonlight, this accused was found in complainant's premises, with a sara (article 2) belonging to complainant's son Virupanna (P.W. 4) within his coat-pocket, that he was thereupon seized and and detained there as a thief or burglar having been tied to a pillar with a rope till next morning and then sent to the Chavadi, that the Patel made a report of the alleged occurrence, and that the Police arrived and released the accused after taking a bail bond from his maternal uncle Vobaiah.

Accused's story is:-

That there is zid between the Naikers and the Lingayets in the village,

that the complainant Gangappa (P.W.2) and he are not on good terms and that the former had got a petition also sent up against him.

that there was a dispute between the complainant and accused's uncle Vobaiah regarding some land which they had severally purchased from two individuals Hanuma and Dyamagg respectively,

that the complainant called the accused at 10 P.M., on the night in question to talk over this matter,

and that when the accused told him that he could not help him, he (complainant) and some others tied him to a

pillar, foisted Article 2 into his pocket and concocted a false case of theft against him.

4. The learned Magistrate disbelieved the story of the alleged theft, and the story of the accused's having gone to the complainant's house on invitation. He, nevertheless, convicted the accused for an offence under section 448 I.P.C. as he failed to explain satisfactorily his admitted presence in complainant's house at an odd hour of the night.

5. Mr. C. Subba Rao the learned Counsel who appeared for the Appellant (accused), contended that the accused had satisfactorily proved his case, and that he was innocent, and that at all events the punishment awarded, to wit, one year's Rigorous Imprisonment and a fine of Rs.200/- was out of all proportion. I will, therefore, discuss the Defence evidence in detail.

6. D.W. I. Bajjanna, who is the post-runner, says - that the accused was in the post-office at about 9:45 P.M., on that night when he (witness) brought the mail bag and delivered it to him,

that complainant's son Virupanna (P.W.4) came and called him (the accused).

that later on the complainant himself came and called him and that the complainant, his son, and the accused were seen going together towards accused's house.

This witness is of the same caste as the accused, and he had served under him.

D.W.2. Obanaika, also a post-runner and a Naiker, - speaks to nothing useful.

D.W. 3. Seorayya says that he, on a certain night, -

about a year ago called the accused as desired by the complainant, and that on the following day, he found the accused in the chavadi. He is also a caste-man of the accused.

D.W. 4. Sannaga also says that he called the accused saying that he was wanted by the complainant, on the night in question.

D.W. 5. Hanuma's evidence is useless.

D.W.6. Hanumantha says that he sold a certain land to Obanna (Accused's maternal uncle),

and that his cousin, who is also called Hanumayya, sold the same land to the complainant subsequently, although he had no right whatever.

D.W. 7. Mr. Veeraswamy Iyer is the Postal Inspector.

He stated that he received a complaint - Exhibit D(1) 23-11-1926 from the villagers against this accused,

and that he held an enquiry and found that the complaint was baseless.

Exhibit D(2) is the witness's report to the Postal Superintendent and Exhibit D(3) 29-12-1926 is the endorsement (copy) given to the villagers.

He also spoke to events subsequent to the date of the alleged occurrence so far as Hirehalli Branch post-office business was concerned.

D.W. 8. Govinda Rao is the Mail Overseer. He too - speaks to what transpired subsequent to the date of the alleged occurrence, and to his having taken a statement - from the accused on 17-3-1927 as to what had taken place on the night in question. This statement is Exhibit (D.6) In this, the accused has given out the same story which -

forms his present Defence.

D.W. 9. Mr. Byata Rangappa is the Sub-Assistant Surgeon of Challakere Dispensary. He examined this accused on 18-3-1927 on Police requisition, and found a number of small injuries on his person(i.e., on the head, face, upper and lower limbs).

D.W.10. Mr. Venkataramayya was the Assistant Inspector of Education. He says that the accused, who is an Assistant School Master was in the school on the night in question, that he delivered tappal to him at 10 P.M., and that he took his permission saying that some body wanted him and went away.

This witness did not see who it was that called the accused. So his evidence has no value.

And D.W. 11. Yenkataiah was a Co-teacher with this accused. He said that the complainant came to the school some time after 8 or 8:30 P.M., when this accused and some others were talking with the previous witnesses on the night in question and called him.

that the accused said that he would go to him after attending to the post.

that some time later on a Manager (Sannaiah) came and called him saying that he was wanted by the complainant.

and that he told him that he would be going shortly.

7. This complainant was one of the signatories to the complaint petition Exhibit D(1) 23-11-1926 addressed by some of the villagers to the Postal Superintendent, Bangalore, alleging that this accused was not attending to post

as well as school duties properly. An endorsement, dated 29-12-1926, was given which must have displeased the petitioners.

The complainant admitted that there was litigation between Dyamiah and Hanumaiah as regards some lands which they have sold to this complainant, and accused's maternal uncle Vobaiah respectively.

The accused is living with this Vobaiah, and he is a boy of 2... years.

Under these circumstances, it is unlikely that the complainant would have sought for the intervention of this boy to settle the land dispute, and that it is also unlikely - that having so invited him to his house, the complainant could have thought of tying him up to a pillar, belabouring him, and keeping him there till next morning.

The Defence story is incredible, and the Defence evidence is interested.

I hold therefore that the learned Magistrate was right in rejecting the same.

8. If we reject the story of theft alleged by the Prosecution, as the learned Magistrate has rightly done and if we reject the story of invitation alleged by the Defence, what remains is the admitted presence of the accused in the interior of complainant's house about the hour of midnight on the night of 15-3-1927, and his detention by the inmates - there throughout the night with hands and feet tied up, and belaboured. He offered no explanation when Patel Byanna (P.W.7), who is his ~~own~~ own caste-man, questioned him as to what the matter was when he had gone to the complainant's house that night. The accused was evidently ashamed of his conduct.

Annoyance was the natural consequence of his act. He must have known that his presence at that hour in that house - would cause annoyance to the inmates.

'Although there might be no wish to annoy, still if annoyance is the natural consequence of the act complained of, and if the person who did it knew that consequence would flow from his act, then he must be held to have acted with intent to annoy, within the meaning of Section 441 of the the Indian Penal Code.'

17 Mysore Chief Court 192 and 16 Mysore Chief Court 27 (Vide also 44 I.C. 35; and 44 Cal.358).

As we have these decisions of our own Chief Court on the point of intention to annoy, it is unnecessary to consider the effect of the decisions quoted by the Appellant's counsel to the contrary. (Viz., 38 All 517; A.I.R. 1926 Lahore 600, A.I.R. 1924 Oudh 342).

I am therefore of opinion that the accused's conviction is correct.

9. I agree with the Appellant's learned Counsel in - that the sentence awarded is out of all proportion to the offence committed.

The accused is an inexperienced youth of about 23, and he was a school-master as well as the Branch Post-Master As a result of his indiscreet act in having entered the complainant's house at an odd hour of the night with some ulterior object, he has already sufferred heavily. He was beaten by the inmates and detained by them till next morning. He was then marched to village chavadi and was detained there till the Sub Inspector released him on bail on 18-3-1927. He has been thus disgraced and humiliated. He

had undergone a few days' imprisonment also before he was enlarged on bail by an order of this Court. He will probably lose both his appointments now. I think that, taking all these circumstances into consideration, the imprisonment he has already undergone is quite adequate to meet the ends of justice, and I order accordingly.

The sentence of imprisonment as well as fine awarded by the Lower Court is modified and reduced to one of rigorous imprisonment only for the term which the accused has already suffered, before he was enlarged on bail, and he need not pay any fine.

Bail bond taken are hereby ~~are hereby~~ cancelled.

Pronounced in open Court.

SD. B.R. Krishnamachar,
Sessions Judge,
21-6-1929.

" C O P Y. "

For Director.

Appendix F G—1

I 2

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

Section Law

File No. 147-29

Serial No. 2

No. 6359

General and Revenue Secretariat

( )

the 192

To

The Director of P. I.

Date of issue 6/5/30

Signed by

Sir,

With reference to your letter No: A2 3891-149 of 29.30 dated 29 March 1930 regarding the ~~Conviction~~ liability of Doddaiya, Asst master, Kirehalli Primary School, I have the honour to state that there is no point of law involved in the matter. ~~whether the Court is a question on which no legal opinion Can be given. I may however~~

over

5 dismissed from Service in consequence of his conviction under S. 448 I.P.C.

List of enclosures.....

Copied by

Examined by.....

Mr. Lawrence,

I request you to send me a copy of the Judgment of the Special 1st class Magistrate Chitaldrug together with copies of the depositions in the case, if available.

Thanks

Yours faithfully

Dy
12/5

13

The Director of Public Instruction in Mysore,

Bangalore.

With reference to your letter No.A.2-3891/249 of 29-30 dated 29th March 1930, regarding the liability of Deddaiya, Assistant Master, Hirehalli Primary School, to dismissal from service in consequence of his conviction under Section 448 I.P.C. I have the honour to state that there is no point of law involved in the matter and to request you however to send a copy of the judgment of the Special Ist Class Magistrate, Chitaldrug, together with copies of the depositions in the case if available.

I have the honour to be,

Sir,

Your most obedient servant,

For Legal Remembrancer &
Secretary to Govt.,
Law Department.

TD

Postal Address:—POST BOX No. 6.
Tel. Address:—EDUCAGENT, Bangalore.

2282 / 30

Department of Public Instruction.

Government of Mysore.

147-29-3

No. A 2 - 3891-249 of 29-30.

OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION IN MYSORE,

ENCL. One File.

Bangalore, dated.....193

6 NOV 1930

FROM

A. R. WADIA, ESQ., B.A., (CANTAB), BAR-AT-LAW.,
Offg. DIRECTOR OF PUBLIC INSTRUCTION IN MYSORE,
BANGALORE.

To

P. Mahadevayya, Esq., B.A., B.L.,
Secretary to the Govt. of Mysore,
Law Departments, Bangalore.

SIR,

In continuation of my letter No. A 2 - 3891-249 of 29-30 dated 15th October 1930 regarding the liability of Doddaiya, Assistant Master, Primary School, Hire--halli, Challakere Taluk to dismissal from service consequent on his conviction, I have the honor to submit herewith copies of judgment and depositions relating to the case as called for in your letter No. 6359/Law. 147-29-2 dated 15th May 1930.

I have the honor to be,

Sir,

Your most obedient servant,

Offg. Director.

CS. 4/11.

15

In the Court of Special II Class Magistrate, Chitaldrug.

Case No.95 of 2926-1927, dated 7th April 1927.

Deposition of Putta Jetty I Witness for Prosecution.

Father's name Thimma Jetty.

Age 41 years.

Caste Kshatria.

Occupation Sub Inspector.

Residence Chellakere. bound / sworn.

I got the report ~~from~~ of the Hirehalli Patel Ex. P1 on 16th March 1927. I got through the Taluk Police Station. The next day I went to Hirehalli and saw the house in which the offence is alleged to have been committed. The house is a terraced one. One can climb to the roof either by a tree which is close by or by the zinc sheet frontage. I seized Art 1 the rope which complainant Gangappa produced before me saying that it was with that ~~the~~ which he had confined the accused ~~and~~ as stated in ~~it~~ the report. The same day the Patel Baiyanna produced before me Art 2 gold tali and Art 3 Lakshmi coin (gold) saying that these were found in the coat pocket of the accused when he was confined. These I seized. I examined ~~Thayappa~~ Gangappa, Channabasappa and all other prosecution witnesses the same day. Siddahalli Viranna I examined on 28th March 1927 and also Veerabhadrappa and G. Channabasappa P.Ws. I arrested the accused on 17th March 1927 and ~~took~~ sent him to the Hospital at Chellakere as he complained of pains over the body. On the 18th I let him on bail. I saw some abrasion on the knee of the accused on 31st March 1927. I ~~plead~~ placed a charge sheet in this Court.

Xn.-

The roof of the house may be 8 or 9 ft. and that the place where the zinc sheets are it may be 6 ft. high. The place which is roofed by the zinc sheets is enclosed and the enclosure has a door also. I do not know if this door has a hasp but I saw a cross beam which is ~~xxxx~~ used behind the doors for ~~x~~ securing them. There was ~~to back~~ tobacco and other ~~propets~~ substances in the

portion of

this house. The accused said before me that he had been tied to the pillar and beaten as he was on ~~fir~~ friendly terms with the wife of Gangappa, the owner of the house. I did not register this as information for a case and investigate the same. I did not ask ~~the~~ the Doctor to give me a certificate of injuries on the person of the accused. Before me the Daffedar had gone to the village and returned. That was the Daffedar of Taluk Police Station. Hirehalli is the village where Police beat constables of Molakalmuru Taluk and Chellakere meet. On the day of occurrence also I learnt that the beat constables had gone to the village. The accused is a resident of Hirehalli. He is the school and Post master of the place. I did not find out in my investigation whether the accused was living in his own house or somebody else's. I did not see Burra Obiah, the Surtee until he came to me to Chellakere and offered bail. I am Sub Inspector of the Range for the past one and half years. I have gone to Hirehalli a number of times. I don't know if Vobiah is one of the richest ryots of the place. Gangappa and Channabasappa are brothers and they and Virpanna, son of Gangappa live together in one house. Messrs. Timmanna and Veeranna are stated by the complaintant to be neighbouring house owners. I do not know if the other P.W's are neighbours of Gangappa ~~xr~~ or not. Gangappa's house is situate in the midst of other houses. I did not enquire who were the next door neighbours of Gangappa; no, I remember ~~xrx~~ one Aianur Channabasappa is the left side neighbour. This is the witness whom I examined on the 28th March. The accused has stated before me that he was tied and beaten by Ajjappana Tataiah, Sivasankariah Gangappa and his brother Channabasappa. Sivasankariah is the son of P.W.Thimmanna.

Re.- The constables meet Hirehalli at morning time.

R.O.T

Sd/ S. Srinivasan.

V.N.R

17

duly sworn

25th May 1928.

Further Cross Examination.-

I went to the spot on Thursday. I saw the Mail Overseer, The accused was not released after 5 P.M. on Thursday i.e. the 17th March till he was let on bail. The accused was however in the Chavadi when I went. The accused was at perfect liberty to go anywhere, since I went there at 12 noon till I arrested him. He was being watched and his movements noted. I don't know who despatched the mails. The mails were despatched by the Daffedar under instructions from the accused. On 17th March 1927, I remember to have seen the Mail Overseer in the evening. I did not ~~refer~~ reject the offer of the mail Overseer to stand surety for the accused. As the accused said that he had handed over charge to Konerappa, I did not think it necessary to ascertain about the despatch of mails and Postal work. I was not concerned with it. I don't know who attended to that work afterwards. As the mail Overseer had himself come, I did not think it necessary that I should have ascertained whether the accused had orders to hand over charge . I don't know when the mail Overseer had come. The accused told me that he had already handed over charge to Konerappa. I left the village in the same night by cart. I have even before leaving my headquarters, writing to the Postal authorities i.e., to the Chellakere Postmaster to hand over the accused to the Police. I got oral report that they complied with my request. I don't know ~~whether~~ where that person is, the postmaster is. His name is Narasinga Rao. I cannot say whether the present incumbent was the Post master. I allowed the accused on bail on the 18th . I can't say when. The mails were despatched by me.

R. O.

Sd/ Dwarakanath,

25th May.

Dwarakanath.

First Magistrate,

Chitaldrug.

V.N.R.

18

In the Court of Special II Class Magistrate, Hirekerur

Case No.95 of 1926-1927, dated 7th April 1927.

Deposition of Gangappa 2nd Witness for Prosecution.

Father's name Hampanna.

Age 40 years.

Caste Lingayet.

Occupation Agriculture and Trade.

Residence Hirehalli.

My brother Channabasappa, his wife and two children, my three children myself and my wife, my brother's son and my mother all live together in the house at Hirehalli. I have married a second wife the first being deceased. We were all sleeping in our house on a Tuesday night about 23 days ago. At about midnight my son Virapanna screamed ~~screamed~~. I asked him what was the matter and he said that somebody had trodden on him. It was a moonlight night and I observed that somebody was running close by. He knocked against a cotton tree and sat down. That tree is in the house itself in the backyard. I was sleeping in a part of the house which has got a roof above the walls all round. There is a door also ~~with which~~ fit with Chilka. I went and caught hold of the man. It was the accused. I raised a hue ~~rain a here and~~ and cry and my younger brother came out. We restrained the accused but as he attempted to run away we tied him up to a pillar with the rope Art.1. My boy Virpanna complained that the sara in his neck was missing. Then with the help of a lantern we examined the place. Near the bed we discovered a coin Art.3. We searched the coat pocket of the accused for the sara Art.2. and true enough it was there. We put the coin also into the pocket My brother brought the Patel and others. The patel said that he would made a report and asked us to send the accused to the Chavadi. I told the Patel that he may do as he liked and as the patel did not turn up again till morning the accused was kept as he was, confined in my house. Arts. 2 and 3 were left behind in the pocket of the accused. It was midnight when all this happened. In the morning the Patel came and Panchayatdars

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and took away the accused to the Chavadi. The accused is a Naiker by caste so is the Patel. The two are also relatives. On Thursday the Police Sub Inspector came to our place.

X Exmn.-

I did not see the injuries on the person of the accused except a swelling near one of the eyebrows. When I tied the accused there were only my brother and my son - none else.- When we searched the pockets also there were none else. We had tied the accused to the pillar close by the place where we were sleeping. The Sun might be two marks high when we released the accused. The Patel and others asked us to release the accused and make him over to their custody. We did not say that we would not release him until the Police Inspector came. In the morning the ~~would~~ Patel came with ~~the local~~ beat constable Thippaiah. I did not refuse even to the contable. It is not true that the Daffedar came and he was responsible for getting the accused released. The accused was in the Chavadi only until the Sub-Inspector came on Thursday. Patel wrote the report and sent it in the night. He wrote it in the Chavadi. I told him that the accused knocked against and sat at the tree and I caught hold of him there. I have told the Patel that I heard sounds of men walking on the roof. I did not go up and see what that might be. Round about my houses are the houses of Sivanappa, Kenchaveerappa and Gurusiddappa. The post comes to our village once in the morning and once in the evening. The accused is the Postmaster of our place for the past two or three years. I cannot say who was post master before the accused's time. I don't know if Sivasankariah held that place. There are complaints against the accused addressed to the Superior postmaster. I have signed and also several others these petitions. Cheluvappa and four or five others had the complaint and these asked me to sign it. I did so. Cheluvappa, Sivanappa and Timmanna are among the leading Lingayets of our place. P.W. Veeranna has no land and he owes me no money. He keeps a Sunday shop. P.W. Gurusappana Channabasappa has no land or house. He has put up a shed on the

land

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land belonging to one Iriah. There is litigation about Virabhadrappa's land. None of the P.W's are indebted to me. The accused lives in his maternal uncle's house. He is a native of our place. This uncle is a money lender. His name is Vobiah. Vobiah has taken lands of one Dyamaiah and I have taken lands of Hanumaiah. There is litigation between Dyamaiah and Hanumaiah as regards the lands which I and Vobiah have bought. I have deposed before the Sub Inspector that I asked the Patel to take away the accused ~~ever even night~~ overnight and that he failed to do so. We did not attempt to settle the land disputes between Dyamaiah and Hanumaiah. nor did we send for the accused and his uncle for the purpose of the panchayati. The hittal wall is just higher than 7 or 8 ft. There are houses adjoining this wall. There is a door from the hittal. This was closed at night and it remained so throughout. I have not stated before the Police that I did not observe if the door was open or closed.

Re.- nil.

R.O & A.C.

Sd/ S. Srinivasan.

Further Cross Examination after charge.-

I have said that I do not remember whether the 'Vade mara' was used or not for the door. I was not asked to say whether the door was open or shut. I have not stated that the Post arrives at our village at such and such an hour nor have I said that it leaves the village at such and such an hour. I don't know if the Asst. Deputy Inspector had come to our village. I cannot say when the tappal arrives or leaves over village. It arrives in the day or leaves in the day. I cannot whether it arrives in the morning or in the evening. The poast arrives from Molakalmuru twice. It arrives at our village in the morning. I cannot say when it leaves our place. We had tied the accused by the hands and waist. We had used ~~one gone~~ only one rope. Myself and my brother tied the accused. He continued to be so till he was taken to the chavadi. He had no injuries on the body except a small one one the right side of the front head. Byanna is the son of Thippayya. He is the adopted son. I don't know anything about the dispute re.

re. the Pateli office between this Patel and the accused. I have stated before the Police Sub Inspector that the Patel wanted me to give up the accused to him and that he went away saying he would come again after sending up a report to the Police. He never turned. But came the next day. I did not see the Daffedar come near my house. I saw only the Sub Inspector and with him the Daffedar and it is only then that I saw him. The Khate of the land about which there is litigation stands in the name of Dyama. Dyama and Hanuma are now living ,

Re. Exmn. nil.

The witness correctly himself by saying that the accused has some injury on the face whether ~~right~~ right or left he cannot say.

R.O.& A.C.

Sd/ V.Dwarakanath.

1st May 1928.

By Court - at the suggestion of the Prosecution

Q [illegible]

Ans. [illegible]

R.O.A.C.

(Sd) V.D. 1/5/28. V.N.B.

(Copy)

S. Bannerjee.

First Magistrate,

Hubli.

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In the Court of the Special II Class Magistrate at Chitaldrug.

Case No.95 of 1926-1927.

Deposition of Channabasappa III Witness for prosecution,
8th April 1827.

Father's name. Hampanna.

Age. 35 years.

Caste Lingayet.

Occupation Trade.

Residence Hirehalli.

Before Swan

P.W.2 is my elder brother. We all live together, On a Tuesday about 24 days ago he went as usual to Bellary but after going a couple of furlongs he changed his mind and came home. It was then about 8-30 P.M. He was taking money and he said that as there were no other carts accompanying he thought it wise not to go alone. He and his children slept as usual in the hittal houses ~~xxxxxxx~~ while his wife took bed in the kitchen. We all went to sleep as usual. At midnight there was a cry from the hittal house from Gangappa that some one had come. I was sleeping in the nadumane and went out with a lantern to see what was the matter. I opened the door and went ~~with~~ into the hittal house. There I saw my brother and the accused tussling with each other and I caught hold of the accused. We forced him to sit in the hittal but as he attempted to run away we tied him to a pillar. After that Virpanna the boy complained that he had lost his Taveedu. We searched in the place and found a stray coin of it lying there. We found the Sara in the pocket of the accused and we put the coin also into the same pocket. P.W.2 asked me to fetch the patel. We then opened the doors of the hittal house. There were already standing in the ~~hazar~~ varaa Ajjappa, Sivanappa, Siddanahalli Veeranna and several others. I asked some one of ~~whom~~ them whom I cannot name or remember now to go and fetch the patel. The patel came into the house with panchayetdars. We told them that the accused has come at this time of the night. The boy complained ~~to~~ that he had lost his Sara and the same is found in the pocket of the accused. The patel told us and the panchayetdars that he was taking the accused with him. We said that he might do as he

please

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pleased. The Patel and panchayatdars went away to the Chavadi saying that they would make a report. The patel did not take the accused with him. I also went to the Chavadi. The patel wrote a report there. It was a moonlight night. By the time I reached house the moonlight had disappeared. Arts. 2 and 3 are ours.

Xmn.

No Mahazar was written for the finding of art. 2 in the accused's pocket. The patel and panchayatdars went away leaving art 2 and 3 in the pocket of the accused. The next morning the patel xfxxx came with constable Thippaiah and others and I remember the constable took out art.2 and 3 from the pocket and showed ~~handed~~ them to the panchayatdars. They were again put into the accused's pocket and the accused was taken to the chavadi then. P.W's. Sivanappa and Ajjappa were present and saw this. The accused was kept tied from midnight till 7 or 8 in the morning. He had been tied by the waist and the wrists. He was in a standing position. Thippenudrappa son of Odo Tippanna wrote the report for the Patel as the latter is illiterate. The patel and panchayatdars who were in the chavadi were having the report written. I do not know the names of the panchayatdars who had the report written. My brother did not come to the chavadi. The front portion of the hittal house is protected by a sloping roof of tin sheets. There are no zinc sheets in our house at all. This is rested on four pillars in front. There is no wall or enclosure on the front-side. The plan Ex P2 is all right except where it is written zinc sheets. It ought to be (Dabba) Tin sheets. There is no passage in the wall between the kitchen and malige. Ankana - The two marks in the sketch represent a window. Its size is 4 ft. by 3 ft. roughly. It has no bars. It is used as a passage for human beings also. The window is about 4 inches from the ground level. We tie the cattle in the hittal during Summer and when it rains we tie them up in the malige ankana of the place. The pit for storing drinking water for the cattle is in the portion marked malige ankana. The manger is also in this place. It runs West to East. The window between the kitchen and the malige mane i

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provided with planks which have got also arrangement for locking with hasp. The front wall of the house is plastered with mortor. To the east of our house runs the house of Virabhadrappa from the point where the pillars are shown in the plan to the front line of the house. This Veerabhadrappa is different from P.W. Virabhadrappa. None of those whom I saw in the bazar on opening the door came into the house before the Patel stepped in. In the plan the pillars shown in front of the malige mane rest on a parapet wall about 2 ft. high. The tin sheet frontage extending from this portion of the malige rests on a rafter which is on the walls at either side of the malige house. There are no pillars below the line. The accused was tied to the third pillar counting from the east. We did not assalt the accused. We dragged him as he was struggling. I cannot say if any of the inmates of my house were witnessing it as Gangappa and I were tying up the accused to the pillar. The accused did not cry out when we restrained him.

Re. nil.

R. O. & A.C.

Sd/ S. Srinivasan.

Duly sworn

Further Cross Examination.- after charge.-

The Sub Inspector has examined me and I have signed the statement. It was on Thursday. I have stated before the police that on the day in question my elder brother had gone a few furlongs to go to Bellary and changed his mind and returned, and that as he was taken money and no other carts accompanied him he returned. When he came we were wide awake. I don't know whether the asst. Dy. Inspector had come that day i.e. of the day of the incident. The school is ¼ furlong from my house. I don't know if some other village school masters had come to the village. There is tappal to our village. I can't say when it comes from Talaku village. I cannot say with any precision when it arrives whether morning or evening. I can't say the number of years since the establishment of the post office in our village. On Thursday the Sub Inspector had

come. I don't know whether the Daffedar has come with him. or not.
I don't know whether any of the Police Officer had accompanied him
The accused was taken to the Police after he was released
from the Bondage. Constable Thippayya, Panchayatdars Ajjappa,
Sivanappa and Thippanna and others had come.
The patel came with them. The patel came in advance. I
don't remember whether he summoned the panchayatdars or not. The
accused has a small abrasion on the front head. The accused was
taken (walk) to the chavadi till the Police Sub Inspector came. Then the
Sub Inspector took him to Chellakere.

Re. Cros. Exmn. nil.

The accused lawyer put a question whether the Police Sub
Inspector was examined in front of the Court or not. This question
was disallowed as there was no use served and that the
information is available in the Court records itself.

R.O.& A.C.

(Sd.) V. Dwarakanath,

1st May 1928

V.N.D.

Sworn

Dwarakanath.
First Magistrate,
Chitaldrug.

In the Court of Special II Class Magistrate at Chitaldrug.

Case No.95 of 1926-1927, dated 8th April 1927.

Deposition of Virupanna IV Witness for Prosecution.

Father's name Gangappa.

Age 13 years.

Caste Lingayet.

Occupation Student.

Residence. Hirehalli. Truly sworn

P.W.2 is my father. I was sleeping in the hittal mane, of our house along with my father. My younger brother Basappa and Hampanna, my uncle's son. This was on a Tuesday night about 24 days ago. I felt as if some one was treading on my foot. I cried out and told my father that I felt as if some one was walking over me. My father went after the man who was running ~~along~~ away and caught hold of him. He cried out and P.W.3 came. They both of them caught hold of the accused Doddaiah who is postmaster. As he was struggling he was tied to a pillar. I saw that my Taveetu was missing. My uncle and my father searched ~~and~~ it near the bed and there a gold coin was recovered. They searched into the pocket of the accused and found the sara. Art. 2 is the sara and Art 3 is the coin.

Xn.-

My younger brother does not wear an ornament like art 2. Hampanna is younger to me. He has a brother Rudrappa. He is older than me. Rudrappa is married but he had gone to his wife's place some 15 days prior. The two boys who were sleeping with me got up then. The wives of P.W's 2 and 3 did not come out to witness the galata. They were not present when the accused was tied that the jewel was found in his pocket. I don't know if my father and my uncle asked the accused why he had come to the house. The accused did not cry out nor did he say anything when he was restained and tied. The accused is a school master. The accused had come to the school on the Tuesday. It was after he was tied up that I saw my Sara was missing. My father brought bought

bought the rope. I don't know whether the accused was not beaten. He was not weeping. The accused had a white shirt and a green shawl on.

By Court.-

The accused had never come to our house. I have never seen my father and the accused talk to other. The house of the accused is behind ours at a short distance. I did not ask the master why he had come at that time. There are four masters in our school. The accused does not teach our class. The accused has never spoken to me. I had worn a Karadige also. I wear Art. 2 always. I was sleeping with Art 2 on. I was not aware when the sara was wrenched or removed from the neck. There was a light burning in the house which P.W. 3 bought. It was burning. As we enter from the street, we go into the nadumane of our house. From there on there is a room. It was here that my mother was sleeping. She was not sleeping in the kitchen.

Re. nil.

R.O.& A.C.
Sd/ S. Srinivasan,

Further Cross after charge.-

I can't say when I went to bed on the day of occurrence. My father came that night. I was aware when he came. We had already taken our food before he came. My father had his food and it was already lighted. I cannot say the hour. I go to school. Whether time table is followed. The accused is also a teacher. He does postal work. We get tappals from Chellakere after the school is over in the evening. That one from Molakalmuru after supper. I don't know when it leaves again. The accused is a teacher but I don't know how long, I can't say how long I have been a scholar. I have been now in the IV class. I had been detained in one class for one year. Promotion is by year. I don't know who released the accused and when.

Re. Exmn. nil.

R.O & A.C.
Sd/V. Dwarakanath. 1-5-45

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In the Court of Special II Class Magistrate at Chitaldrug.

Case No.95 of 1926-1927, dated 8th April 1927.

Deposition of Viranna

Father's name. Thippanna

Age 30.

Caste Lingayet.

Occupation Trade.

Residence Hirehalli.

V writes for Rest

Duly sworn

My house adjoins P.W.2's. On a Tuesday midnight about 23 days ago there was a cry that some body had come for thieving. I went and stood in the road in front of the hittal door of P.W.2. A crowd gathered. P.W.3 opened the hittal door. I and others asked what was the matter and P.W.3 said 'ಸಾಹುಕಾರ ಬಂದಾನ' (ಸಾರ) He did not say who had come. P.W.2 said that a Sara was missing and it was in the pocket of the accused. He showed me that Sara (ಸಾರ) picking it from the accused's pocket. The Patel and panchayatdars were sent for and they came. They said that they would send a report and so saying they went to the Chavadi. I also accompanied them. Gangappa remained in the house. Art.2 is the Sara (ಸಾರ) that I saw that night. I also saw art 3 in the pocket. Lots of people entered the house.

Xn.-

I am living in the house of one Sivasankarappa. I pay rent. I have no house or land of my own. There was already a crowd when I went to the house. Ajjappa Sivanappa and Mallappa were among them. We all got into the house when Channabasappa opened the door. Rokkada Tippanna asked the accused why he had come. The accused gave no reply. He is not a witness but he is alive. The accused had been tied when we entered the house. The patel put no questions to the accused. The patel said that he would write a report and then take the accused with him. I don't know what happened afterwards. Tipperudrappa wrote the report. No body dictated or helped in the writing of the report. He did it himself. Tappal is brought to Hirehalli late in the

evening and it is despatched early morning at 4 A.M. The tappal was sent that day after the Police Daffedar came. I have signed the petition complaining of the bad work of the accused as postmaster. Sivanappa, Gangappa and others have signed. There are misunderstandings in our village between the Lingayets and Nayakars. Among the Lingayets report writer Thippedudrappa's father and Sivanappa are the leaders. Among the naikers Obanna is leading along with some others.

By Court.-

It was not business to see that the accused was released after the report was sent. I went home from the Chavadi after the patel despatched the report. The report was written in the chavadi with Art 2 in our presence. The patel had it in his custody.

Re. nil.

R. O. & A.C.

Sd/ S. Srinivasan.

Examination after charge.-

Duly sworn.-

The accused does postal work for 5-6 years. Before that Thippayya was doing. I don't know if Sivanankarappa was doing the work. The accused was tied down till morning when he was released. I had gone. Police Thippayya and others had gone. My house is close to the place. So I casually went there. I was not called. I had gone inside the house. I don't know what I have said before the Police about the matter connected with the release of the accused. I don't know if I have been examined at all by the Policem nor do I remember whether I have signed any statement.

Re. nil.

R.O.& A.C.

Sd/V.Dwarakanath.

1st May.

In the Court of the Special II Class Magistrate at Chitaldrug.

Case No.95 of 1926-27, dated 8th April 1927.

Deposition of Sivanappa VI Witness for Prosecution.

Father's name Gurupadappa.
Age 56
Caste Lingayet.
Occupation Agriculture and Trade.
Residence. Hirehalli.

On a Tuesday past midnight about 23 days ago, I was sleeping in the angala when I heard a galata and went to the house of P.W.2 where there were already a crowd of people. They were all near the hittal door. We had the door opened. Channabasappa opened the door. The accused had been tied to the pillar near the malige shed. P.W.'s2 and 3 told us "Look here. This man has removed the sara from the neck of the boy after trespassing into the house". We said "very well, send for the Patel" The patel came accordingly. They told the same to him also and asked him to witness that the article was in the pocket of the accused. Accordingly P.W's 2 and 3 picked the article from the pocket and showed it to the Patel. The patel examined it and put it back into the pocket. P.W's 2 and 3 asked the patel to report existing facts. He pleaded inexperience and said he would send for Thippe Rudrappa who was the former patel. Thipperudrappa who was sent for and came also said he had not much experience in making reports but noted something in a paper in the house itself. We then moved from there to the chavadi as patel said he would fetch from his house the report form. Here the report was rewritten by Thipperudrappa and sent. We next went away to our houses. Patel Baiyanna signed the report. I pay Rs.60/- kandayam and Rs.50/- income-tax.

Xn.-

I have signed the complaint against the accused whose work as postmaster has been unsatisfactory. Virapanna, Ajjappa,

were among the corwd when I went there first. We none of us questioned the accused until the Patel came. It was the Patel who questioned him but the accused gave no reply. I am in talking terms with the accused who is a native of our place but I did not ask him for an explanation of the situation. I left it to the patel and I cannot say why I did not ask him. The sara was not shown to us until the Patel came. We none of us asked that the accused should be released from his bonds. I cannot say why I did not ask. The patel said that the accused should be released and we all said that he may do as he pleased. Afterwards he said that he would do it after sending the report. The chavadi of our place is adjoining Gangappa's house. The chavadi is an extension of Virabhadrappa's house. Art 2 remained in the pocket of the accused till next morning. Mariyanna is about 23 years old. Nobody helped Thipperudrappa in writing the report. Until the Police Daffedar came at about midday on Wednesday the accused was in the Chavadi. He was also fed there. After the Daffedar came, he asked the accused why the post had been delayed. The accused said that it was because he had been confined. The Daffedar did not ask the accused why he had gone into the house nor did the accused say anything on the point. P.W.3 is a distant relative of mine.

Re. nil

R.O.A.C.

Sd/ S. Srinivasan.

ReExmn. nil.

Cross Examination after charge. Duly sworn.-

I had applied for some land. The accused I cannot say was one who had protested against grant. I cannot remember who had protested. His father-in-law is not such a man as would protest and I don't think he had done so. The next day the Daffedar had come in the morning 8 - 9 A.M. The Sub Inspector came afternoon. We had all gone to the complainant's house with the Daffedar. I don't know when the accused was freed from the bondage.

Re.Exmn.

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Re. Exmn.-

It was 2-3 years since I applied for the land. We had gone to the complainant's house just soon after the Daffedar came and the Sub Inspector came. The daffedar first went to inspect the place.

R.O.A.C.

Sd/ V. Dwarakanath,

1st May-

V.D.

(Copy)

Sd/ Illegible

First Magistrate,

Hukeri.

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In the Court of Special II Class Magistrate at Chitaldrug.

Case No.95 of 1926-1927, dated 18th April 1927.

Deposition of Bianna (VII) Witness for Prosecution.

Father's name Thippaiah.

Age 28.

Caste Myasa Naikaru.

Occupation Pateli and Agriculture.

Residence. Hirehalli.

A month ago on the 15th Channabasappa came to me at about midnight and took me to Gangappa's home. Accused Doddaiah had been tied to a pillar in the hittal house of Gangappa. There was a crowd in the Road. Channabasappa opened the hittal door for me. I got in along with 4 or 5 other panchayatdars. Gangappa said that the accused had come to his house for theft that he had caught and bound him up and that a report should be made by me. I asked Thippe Rudrappa to make a note of what Gangappa said on a blank there and afterwards we went to the chavadi and there I got a report written in the prescribed form. He himself wrote the report. I have signed the report. I sent it to Taluk at once. It was just then dawning. When the Sun was 4 or 5 marus high I went again to Gangappa's house with panchayatdars and P.C. Tippa Naika and got Doddiah released. We brought him to the chavadi. At about midday the Police Daffedar also came. We had the post bag then despatched. The accused is the postmaster of the place. I see arts 2 and 3. These I just saw when Gangappa picked them up from the accused's pocket and showed me them.

Cross Examn.

The blank paper was abandoned there after the report was written in the printed form. We had left arts 2 and 3 in the accused's pocket. When we went to the chavadi to write the report. I gave these to the Daffedar when he came out he said that I may keep them with me and produce again the next day.

I gave these to the Sub Inspector the next morning when he came to our village. I am on talking terms with the accused. I questioned the accused as to what was the matter but he gave no reply and I kept quiet also.

Re. nil.

R.O.A.C.

S. Srinivasan.

Cross Examination after charge.

I am the adopted son of Thippaiah. My adoptive mother wanted to have the Pateli in the name of accused. I saw the Daffedar the next day after the occurrence. It was noon. He had come to the chavadi. I did not see where he had gone to complainant's house. I don't owe anything to Sivanappa P.W.1. The tappal from Molakalmuru used to arrive in our village at 8 or 9 P.M. The accused is the postmaster there. I don't know when it starts again. It does not leave immediately. It only starts in the early morning. The mails from Chellakere used to arrive in the evening at 6-7 P.M, They that also wanted in the early morning. The postman used to halt there. The Asst. Deputy Inspector of schools had come to our village on the date of occurrence. Some other school masters too had come. He had halted in the school building. The chavadi is close to the school about 30 yrds (30) The post did not leave the place on the day we tied down the accused. I don't know if Sivasankarappa was the postmaster. Formerly there was Singaiya. After that someone had it.

Re. My step mother wanted to give the pateli to the accused before the adoption.

R.O.A.C.

V. Dwarakanath,

1/5.

In the Court of the Special Second Class Magistrate at Chitaldrug.
Dated this 19th Day of April 1927.

Present:- S. Srinivasan, Esqr., B.A. (Hons) B.L.
Second Class Magistrate,
C.C. No.95/1926-1927.
Sect. 451 I.P.C.

Complainant Accused.

Government Vs. Doddaiah.

O R D E R.

This is a charge sheet by the Police of Chellakere for an Offence under 451 I.P.C. The accused is a native and resident of Hirehalli. He is a school master as well as the Post master of the place. The case for the prosecution is that at midnight of 15th March 1927, he got into the house of P.W.2 when all the inmates were asleep and stole Art 2. (a rope gold coins and beads) from the neck of P.W.4 Virpanna, son of P.W.2 and in so doing trod on the boy and awoke the sleeping P.W's 2,3 and 4 who caught him red-handed and tied him up to a pillar until a Police constable came and released him the next day. All the facts transpired when the Sub Inspector proceeded to the village the second day and a case was registered for 451 I.P.C. The charge sheet in the case on these facts has ~~lien~~ been also for 451 I.P.C. as stated above and it is a point on which the Defence counsel has strongly and rightly addressed an argument as to whether if the facts as alleged the offence is not 457 and 380 I.P.C. rather than 451 I.P.C.

Seven witnesses have been examined by the prosecution. There is evidence for the fact that on the day in question the accused was in the house of P.W2 at night time. Indeed that is admitted by the accused also and as for theft of art 2 the entire evidence is confined to the statements of P.W.2 Gangappa, his brother PW-3, and the boy Virpanna. These state that after the accused was caught and tied up to the pillar in the house art 2 was missed from the neck of the last mentioned boy and a search there resulted in the discovery of a coin art.3 that had snapped out of the sara art 2. and a further search led to the finding of the sara in the

the coat pocket of the accused. It was after this a hue & cry was raised which brought a number of other witnesses into the house and that P.W.3 Channabasappa unfastened the hittal door for people to come in. In fact although there was a crowd outside the first person to get into the house on opening the door was the Patel P.W.7 To ~~call~~ these P.W.2 displayed the articles 2 and 3 picking the same from the coat pocket of the accused. The evidence of these witnesses that they saw the articles has ~~there~~ no value whatsoever in the light of the allegation of the accused that the sara was foisted on him.

The case rests entirely on the evidence of Gangappa, his brother and his son. The evidence of the other witnesses affords material to judge of the probabilities and the ~~anticipatory~~ artificiality or otherwise of the case . P.W. 1 is a Lingayet while the accused is a Naiker. Vobiah, the uncle of the latter is a rich man and one of the leaders of his community. He and the nephew live ~~two~~ together and any theory that the accused was in needy circumstances so as to launch on a career of house breaking and theft ~~xxx~~ such as the one alleged of the prosecution does not find any support. On the other hand there is evidence to show that the accused had made himself disagreeable to P.W.2 and some other villagers as a postmaster P.W. 2 admits that he sent up a petition against the accused signed by himself and several others. Apparently there was not much ~~xxxx~~ cordiality between P.W2 and the accused. It is not very clear whether the latter had made himself generally obnoxious or only his conduct as postmaster was disagreeable. Whatever that be it is common ground between the accused and P.W.2 that on the night of occurrence the accused was in the house of P.W.2 and that art 2 was seen in the pocket of the accused.

The prosecution facts if believed would show that the accused had committed an offence of 380 I.P.C. and presumably 457 I.P.C. also whereas the accused says that he went to the ~~home~~ have on invitation of P.W.2 to settle a quarrel relating to lands belonging to one Dyama and Hanuma in which admittedly P.W. 2 and Vobiah

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uncle of the accused Had some interest. The accused says that he went to the house of P.W.2 at 10 P.M. that night on invitation and when he declined to interfere in the matter, P.W.2 P.W.3 and others tied him up to the pillar to teach him a lesson and severely beat him also. The accused has produced what purports to be a certificate of injuries found on his body by the Sub Assistant Surgeon ~~to~~ when the Police Sub Inspector says he sent up the accused immediately after he started on the investigation. It is in the evidence of P.W.1 Sub Inspector that he also found one injury on the body of the accused and that the latter complained of pain all over the body. This witness says that the accused complained before him that he had been tied up and ~~greater~~ beaten by P.W.2 and others from the reason that he was on friendly terms with P.W.2's wife. The Sub Inspector admits that he did not enquire into the truth or otherwise of these allegation and I hardly have any doubt that the ~~evident~~ conduct of its investigating officer has been unfair and onesided. He thought it necessary to send the accused for medical treatment of the pains complained of by the accused over his body and he admits he also ~~P.W an enquiry on the~~ saw an injury on the body of the accused. If so in the light of the ~~P.W.'s~~ accused's statement ~~stated~~ that he was forcibly tied and beaten he ought to have found out from the Sub Assistant Surgeon what the pain and injury was due to ~~and~~ if the accused there was any truth in the charge levelled by the accused. This he omitted to do and gives the lame excuse that he did not understand the accused to mean that his allegations ~~that~~ should be taken as a basis for complaint. The case as now put forward by the Police in the Court bears all the imperfections of such an investigation and it is impossible to make out the truth. As regards the hour of the occurrence the evidence of the prosecution is discrepant and ~~conditiony~~ contradictory the hue and cry was raised Witnesses say that ~~the time was they was knew~~ at midnight and having ~~regd~~ regard to the events that followed it becomes ~~doubt~~ difficult to follow the evidence of P.W.7 Patel who says that when he wrote and sent the report it was early morning, just before dawn. Between midnight and dawn there is a

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a gap which the events alleged could not have occupied. Then again it is impossible to understand how the accused came to have the injuries which the doctor found on him three days later except on the assumption that the accused was thrashed violently. The suggestion of the prosecution witness that he might have sustained them in his struggle to escape from ~~having~~ being tied up is too absurd and ~~perile~~ perverse. P.W. 2 is equally talking a lie in order to give colour to his story when he says that he heard footsteps on the roof of the house but that he did not think it worth while to examine what ~~is~~ it may be due to. It is again significant that while there was all this commotion in the house none of the females of P.W.2's house were noticed on the scene. More than all this it is impossible to understand why the accused was kept tied up to the pillar from midnight till morning after it was clearly ascertained that it was Doddiah ~~of the~~ school and post master of the place. This can only be understood on the assumption that P.W.2 and his people derived delight in the confinement but a perusal of this portion after evidence shows that P.W.2 and others are anxious to shake off the responsibility that they kept him tied till morning. They say that on the appearance of the Patel they intimated him that the accused may be dealt with as the Patel pleased and the Patel went away saying that he should be released. Between the patel who expressed that the accused should be released from his bonds and P.W.2 and his brother who were anxious that the Patel may do as he pleased ~~that~~ the accused confined in confinement till a Police constable turned up in the morning. It is curious again that none of the leading villagers asked the accused for an explanation of his presence in the house ~~if~~ there. This portion of the prosecution evidence affords interesting study and carries with it the impress of prevaricating witnesses. The police sub inspector found a case ready made for him and he has found it convenient to swallow it as it was offered - deliberately ~~leaving~~ leaving aside the allegations of the accused. The witnesses cited for the prosecution are of the same touch-me-not variety, who are not speaking out the full truth. The story

of

of the prosecution is transparently false. The accused says that he has filed complaint for assalt, wrongful ~~conficit~~ Confinement and false ~~foisty~~ forging of a case. I have no material to judge how far this is true or not and besides it is not relevant for me either for judging the prosecution case. It is rather difficult to that if P.W.2 was anxious to secure the help and intervention of the accused for settlement of a panchayati he or his people would have so far gone out of the way as to confine the accused and assault him. But this only by the way. Judging the prosecution, as I ought to, on its own merits, I find no case made out and I accordingly order the accused be discharged. 25.3

Articles 2 and 3 will be returned to P.W.2.

In open Court

Sd/ S. Srinivasan,

18th April 1927.

In the Court of Special First Class Magistrate, Chitaldrug.

Case No.12/27-28

Deposition of Bajjana Gowda, First Witness for Defence.

Father's name Boariah.

Age 35.

Caste Nayakaru.

Occupation Post Runner.

Residence Hirehalli.

I am the Postal runner between Hirehalli and Bommagondanakere for the last eight years. Doddiah is the postmaster, Hirehalli. I used to bring tappal to Hirehalli from Bommagondanakere at about 9-45 P.M. and the mail for the other side start at 6-30 P.M. Both cross at Bommagondanakere. The distance 55 miles. I used to take back to Bommagondanakere. The accused was in the post office when I brought the mail on the date of occurrence. There was three persons in the Post office, the accused, Chikthimmanna and another teacher. Gangappa's son came and called for the accused. Accused sent him away promising to go early after finishing the work. I was asked to take the bedding to the school house where the school Inspector was camping. I delivered the bedding on my return. I noticed the accused going towards his house accompanied by Gangappa and his son. I then went home. Next morning I learnt that the post had not been despatched and that the accused had been kept up in Gangappa's house. I went there and he asked me not to go there. The post did not leave the place as usual in the morning. The Daffedar and the Patel sent the mails at 11 A.M. Obaiah is the person who take mails from Hirehalli to Thallak. I took the mail that day as Obiah had already gone to Thallak to report to the Police. I returned from Talak on the subsequent date. Thippiah- brother in law of the accused attended to the postal work. The Daffedar and Patel handed over the postal bag at the chavadi.

X Exmn. reserved.-

R.O.A.C.

Sd/-. Dwarakanath,
25/5.

Cross Examn. 26/5. Duly sworn.

I have been runner for the last 8-10 years. I came to Hirehalli one and a half years ago. Before that I was in Bommagondanakere. I live in Thippaiah's Kepile land. Thippaya is not come to-day. Thippayya is accused casteman. I don't know if the accused's aunt is Thippayya's wife. I don't know who surayya is. Gangayya's son is Virupaiya. He came and called for the accused. It did not state who and to which place. It was 9-30 P.M. Chik Thimma and master were inside. I don't know why. I was standing outside. When I returned from school, Gangappa came and accompanied the accused. I was there alone. The accused was in the school when Gangappa came and called him. Chik Thimmayya and another had not come there. I am a witness in the other case.

Re-exam nil nil.

R.O.A.C.

Sd/ V. Dwarakanath,

26/5.

Sd/ Y. Dwarakanath,
First Magistrate,
Chitaldrug.

In the Court of Special First class Magistrate, Chitaldrug.
Case No.12/27-28, dated 26th May 1928.

II witness for defence.

Deposition of Obanaik.

Father's name Obiah.

Age 60

Caste Nayakam.

Occupation Post Runner Hirehalli to Tallak.

Residence. Hirehalli.

duly sworn

I have been a runner for the last 40 years. I know accused before him. Sankaramma was the post master of Hirehalli. The post starts from Hirehalli to Tallak at 4-30 A.M. and starting time from Tallak varies according to the arrival of the motor service. It starts from 3-30 P.M. or 4-30 P.M. It is due to arrive at Hirehalli at 5-30 P.M. or 6 P.M. a distance of 7 miles. The post had not left one day about one year ago. I went to

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the post office at 4-30 A.M. as usual. I waited for some time and as the postmaster Doddiah was not there I thought he had gone out, as he did not come and as I heard a noise I went towards chavadi and then I learnt that the postmaster had been laid down in Gangayya's house. I went there. A number of persons were there. I called for him. There Gangayya and Chennabasappa refused to hear me and asked me to go away and report if I liked. I went to the school. There was the school Inspector and another teacher. I told them. They also advised me to call a second time or if I did not succeed to complain. I then went to Thallak as Gangayya refused to allow me near his house. I informed the post master there and sent a report to the Inspector and overseer by postal post also to the Daffedar there. The postmaster wrote the report. I came back to Hirehalli taking tappals at Thallak there at 4-30 P.M. The tappals of Hirehalli had been despatched that day through the runner from Bommagondanakere. The accused was not there i.e. in the post office. The accused brother in-law Thippayya attended to the duties.

X Exmn.

I have been a witness in the other case.

By Court I am at Hirehalli ~~from~~ and all my service.

True copy

First Magistrate, Chitaldrug.

R.O.A.C.

Sd/ V. Dwarakanath,

27/5

In the Court of Special First Class Magistrate, Chitaldrug.

Case No. 12/27-28, dated 26th May 1928.

Deposition of Sooriah Third Witness for Defence.

Father's name-Thowdiah.

Age 18

Caste Nayakam.

Occupation Agriculture.

Residence Hirehalli.

Duly sworn.

I know parties in the case. I was returning from near Gangayya's house one night after supper. Gangappa called me.

I replied. He asked me to call Doddiah. I came and told Doddiah who was in the post office and I went away to my house. Next day I saw him at Chavadi. There was a large number of persons in the Chavadi. This is about over a year.

Cross Exmn.

It may be Tuesday as we offer ~~yeday~~ yedary on such days. The villagers too were awake. It was dusk. Gangappa was outside the house. I ~~don't~~ know who were there. ~~though~~ there were a number of persons. I was in the drama. The accused was also taking some part. I used to take a feminine part. The accused belonged to a different drama party. I cannot say how-many companies there were in the village. The accused was in the post. I don't know who were there inside. There were none outside. The accused did not accompany me.

Re. Exmn. nil.

R.O.A.C.

Sd/V. Dwarakanath,

26/5.

Sworn before me
Sd/ Illegible
First Magistrate,
Chikaballapur.

Deposition of Sannaga. IV Witness for Defence.

Father's name Doddaga

Age 40.

Caste Adikarnataka.

Occupation Agriculture.

Residence. Hirehalli.

duly sworn.

I know the parties. The school Inspector had gone to our village more than a year ago. It was my turn to attend to village service. The Talwar Hanumanna came and called me to supply some fodder to the school Inspector. It was night meal time. I brought fodder. I passed along Gangayya's house carrying out the load. Ganganna asked me to send Doddiah - postmaster. I unloaded the burden near the school. I informed Doddiah of this. He was in school. I was in the village that night

night. Gowda came and called me early morning. I was asked to fetch Talwar Hanumanna. I did so. They all went near Gangayya's house. I did not meet Doddiah later after I saw him in the school. I had gone in Company with Talwar Hanuma to Gangayya's house. When I went to Gangayya's house in the company of Talwar, I learnt that Doddiah was there.

Cross Exmn:-

I don't know Bur Obiah maternal uncle of accused. I don't ~~know~~ cultivate his lands or attend to his services. When I carried fodder I had taken food. ~~It~~ was meal time Gangayya was on the road in front of his house. There were others also. I ~~cannot~~ cannot say who they were. It was dark. There are ~~also~~ shops nearby. Doddiah was inside the school. There were large number of people I called for the accused. He said he would go later. I returned home. I don't know why Gangayya called for Doddiah. I supplied fodder for school Inspector bullocks. I brought them from Arahe Obanna's stock. I did not see the Inspector subsequently or before that. Obiah had gone for the post. His relatives were there. I am a witness in the other case filed by Doddiah.

Re-Exmn:- nil.

By Court.- I cannot say when I was called the first watch had. I was sleeping in the chavadi. Bajappa Gowda came and woke me up. I don't know whose turn it was to sleep in the Chavadi that night. Bajjappa [illegible] that Doddiah was inside the house. I heard the patel talking with the Talwar about Doddiah's being kept under restraint,

R.O.A.C.

Sd/ V. Dwarakanath,

26/5.

First Magistrate

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Deposition of Hanumaiah V Witness for Defence.

Father's name; Basappa.

Age 45.

Caste Myase Nayakaru.

Occupation Thalwar.

Residence. Hirehalli.

truly sworn

I know the parties in the case. I was in the village one night when the school Inspector came. I was asked to supply fodder. I arranged for it and went home. Early morning Begar Sannaga came and called me saying that the Patel wanted me. I asked him what the matter was and he told me that Doddiah had been beaten and ~~xhxtxxin~~ kept in Gangappa's house This the Begar Sannaga told me. I went to the Patel. The patel went in advance to Gangappa's house. I also went there. Doddiah was kept under restraint being tied. I went back to Chavadi. Daffedar came at 8 A.M. that morning. Doddiah was in Gangappa's house when he came. Daffedar got him from Gangappa's house and brought him to Chavadi. I was guarding him. ~~I was~~ Daffedar asked me to keep watch. The Sub Inspector came. I don't know when he came. Doddiah was in chavadi till he was removed to Chellakere.

Cross Examn.-

Doddiah took food. I brought food and milk that day. The Inspector (school) came before the night fall. The cart had come. I don't know when the Inspector came. I asked Sanna to supply fodder. The teacher asked me to do so in the evening. I was asked to do so by the Headmaster. I left home after~~x~~ Sanna brought fodder. I don't know where Doddiah was. The school Inspector was in the school. Gangappa could not allo Doddiah to be taken to Chavadi. Constable had come in advance afterwards the Daffedar came. Constable did nothing. Sannaga does not cultivate Bur Obiah's lands (The witness hesitates to answer) The patel is brother of accused. I am ~~xh~~ the witness in the other case of Doddiah.

Re Exmn.- The accused is not uterine brother of the Patel a. 6 A.C.

Sd/ V. Dwarakanath.

In the Court of the Special First Class Magistrate at Chitaldrug.

Deposition of Hanumantha. VI Witness for Defence.

Father's name : Dyamappa. 26-5-28.

Age 35 years.

Caste Cheluvadi.

Occupation Agriculture.

Residence Hirehalli.

I don't know how much land I have. I have got one land. 7 acres. 25 guntas. I have sold to Bur Obanna. The rest is in my ~~xxxx~~ enjoyment. Dyamanna is my father. My uncle's son is also Hanumayya. He has sold this land to Gangappa Sowcar separately while I have sold to Bur Obayya. I sold it about two years ago and subsequently Hanumanna has sold the same land. Patta is in my father's name. Hanumayya has no interest in the land.

X Exmn-nil.

True copy.
First Magistrate,
Chitaldrug.

R.O. A.C.

V. Dwarakanath,
26/5.

Deposition of Mr. V. S. Veeraswamy Iyer, VII Witness for Decence.

Father's name Subba Iyer. 14-6-28.

Age 42.

Caste Brahmin.

Occupation Postal Inspector.

Residence. Trichinapally Dt.

Chellakere and Molakalmuru belong to Shimoga Sub-Division. I was herein 1928 January prior to it for two years. There is a branch office at Hirehalli belonging to Chellakere Sub-office. Doddayya was the postmaster there. Early morning was the despatching hour and in the evening receiving time in that office for the mails. There was a complaint against the Postmaster by the residents. I have the complaint, Ex.D1, is the petition. I found on enquiry that there was no foundation in the complaint

and

and I sent my reply to the Superintendent. Ex.D2. is my reply to the Superintendent and the endorsement has been granted to the petitioner by the Superintendent. Ex.D3. is the ~~reply~~ copy. In 1927 March I got a wire from the Chellakere Sub Post master stating that mails of the 16th morning from Molakalmuru, Bommagondanakere and Hirehalli were not received and that the runner reports that the B. post master Hirehalli was tied up in a case. Ex. D4. is the telegram I received. I wired to the Mail Overseer, Chitaldrug to proceed to the spot and make enquiries. Govinda Rao was the then Overseer. Generally school masters will be post masters in this office.

X Exmn.

The pay will be Rs.6/- Rs.8/- according to the importance D2. is based on the report of my Overseer and I had also made personal enquiries after the receipt of the report of the Overseer and I cannot say whether D2. was sent after my personal enquiry. I however went to the spot. D2 must have been sent prior to my visit to the village. I did not record any statement nor can I remember whom I examined ~~there~~ there.

Re.Exmn. nil.

By Court.- I don't know who complained against the accused.

R. O. A. C.
Sd/ V. Dwarakanath,
14/6.

Deposition of Govinda Rao, VIII Witness for Defence.

Father's name Venkoji Rao

Age 58.

Caste Marata.

Occupation Mail Overseer.

Residence Chitaldrug Dn.

I have been mail Overseer for 16 years. I know the accused. He is the postmaster of Hirehalli, Chellakere Taluk. The mails from Molakalmuru used to reach Hirehalli at 10 P.M. and despatched ~~to~~ for Chellakere at 4 A.M. next morning. This was in 1927 March. On 16th March 1927, I received telegram (Ex. D5) from Chellakere that the mails from this office were not received at Chellakere

that

that day. I proceeded to Chellakere that day and on to Hirehalli which I reached at 4-30 A.M. on the 17th. By ~~xhextime~~ that time the tappals were received from this office at Chellakere at 6 P.M. 5 hours time has been given for the runner to cover this distance between Hirehalli and Chellakere. I went to Chavadi. There I found the accused and a few were sleeping down on a lower level. At ~~Chavadi~~ Chellakere I learnt that the accused was tied down in one Gangayya's house where he was said to have gone to commit theft. This was also supported by the statement of Doddayya. The accused said that he was sent for the house of Gangayya where there was some settlement of accounts between Gangayya and Doddayya which was not settled and ~~therefore~~ he was tied down and some gold triket ~~thurst~~ thrust into his pocket. He also said that he was not allowed to go away though asked by the runner ~~xxxthxixxthx~~ and Patel and that the police came and set him free at 12 noon. When he gave the key of the office and arranged for the despatch of mails. This I enquired as soon as I came. On my return from my usual calls I learnt that that the Police had come and had gone to Gangayya's house to record statements. I waited till ~~x~~ 12 noon when the Police Sub Inspector came but said that they would take away the Postmaster under arrest. I asked him to let go the accused on bail as the ~~xxxx~~ postal work would suffer. But the Sub Inspector said he had no authority and that he would do so at Chellakere if ordered by the Inspector. We all returned to Chellakere that evening. I asked the Sub Inspector to allow me to take the accused to the post office and then to record the statement of the accused. This was permitted and I took the accused to the post office to record the statement and then returned to Chellakere. I sent the statement to the Postal Inspector at Shimoga.

X exmn.- I received at Chellakere the report of the Thallak postmaster. At Chellakere, I did not hear anything about the ~~registration~~ relief of the Police re. the relief of the accused as he was involved in a case. Nothing has been sent to me either. The accused was ~~xxxx~~ alone on the mail. He was alone. I talked to him. I was talking for about 45 minutes. Nobody woke up in the meanwhile nor questioned me. I woke up the accused. I did not go to Gangayya's house when I recorded the statement

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statement. There was a ~~Kurubar~~ Kumbara present I brought him and took him back. I had the accused for one ~~hr~~ and a half hours. Chavadi is about 80 yrds from post office in another lane. After the ~~submission~~ submission of the report there was no further enquiry. I don't know the result.

Re.Exmn.- The accused did not write the report or statement but it was got written by ~~Kurubar~~ Kumbara person present as the accused was not able to write.

By Court.- The accused was not able to sign either fully. He signed with difficulty. It was signed before me. I cannot say who attended to the postal work on the evening of the 16th and 17th But the accused himself appointed some body on his responsibility and I saw that the work was arranged for.

R.O.A.C.
Sd/ V. Dwarakanath.
14/6.

Duly sworn 9/10. Exmn by Mr. V. Shamanna for the Defence.

I have said that I recorded the statement of the accused I see Ex.D6- It is the statement I recorded on 17th March 1927.

Cross. Exmn.—

I recorded the statement in the Post office at Hirehalli on 17th March 1927 between 20-30 and 3 P.M. I recorded the statement. I did not write this but one Kumbara. I don't ~~know~~ remember who it is.

Re Exmn.- nil

R.O.A.C.
Sd/ V. Dwarakanath.
9/10.

Deposition of Mr. B. Byata Rangappa, IX Witness for Decence.

Father's name : Samanna.

Age 42

Caste Brahmin.

Occupation Sub Assistant Surgeon.

Residence Chellakere.

Duly sworn

I have been a Sub Asst. Surgeon at Chellakere for two and a half years. I have examined the accused on 18th March 1927. He had two healed and dried up ~~abrausis~~ abrasion like wounds on the left of frontal Eminence Similar one of ¼" round and linear on

the left outer on the left eye. On the back aspect he had a third wound in the middle of the pinna of the left ear. There were two abrasion like and dried up wounds ~~in~~ the upper wound being ¼" long and linear and vertical. (4) There was a ~~diffired~~ diffused contusion on the left upper limb (upper and lower arms), From the shoulder joint to the tip of finger with abrasons as under:-

(a) Healed and scratched like ~~abrasion~~ sign on the back of the shoulder joint.

(b) on the dotted rejoin of the upper arm.

(c) On the back aspect of the elbow joint.

The two small abrasions the size of them one of being the ~~size~~ sizeof an a single pie)

5. 1" above the left outer ~~m~~scules (leg) two small ~~abrasions~~ abrasions size of it being of a single pie or 1/12

6. At the junction of the middle and lower thirst on the right forearm small abrasons of the size of a slit pea with a diffused contusion

7. On the ~~falum~~ palma aspect at the root of the right thumb there was a dried up wound size of a 1/12 anna.

8. On the ~~pelmers~~ palmar aspect and above the last phalanges of the right little finger there was a dried up wound of the size of a slit horse gram with contusion of the joint.

9. There is a contusion of all the joints and the whole of the right ring finger.

The period when the injuries might have been caused might be four days old and ~~might~~ may be caused by external violence.

The injuries on the body might be caused by being tied up so also the other injuries in the hand. I speak to this from the register counterfoil.

X Exmn.- The injuries might be caused by striking against any hard substances as by pulling down. Striking against a thorny plant or branches of trees.

Re. Exmn. All the injuries could not be caused by a single fall.

R.O.A.C. Sd/ V. Dwarakanath.

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Deposition of K. Venkataramaiah X Witness for Defence.

Father's name M. Chinna Ramappa.

Age 45.

Caste Brahmin.

Occupation. Asst. master.

Residence Malleswaram, Bangalore.

Duly Sworn

I was the Assistant Inspector of Education of Chellakere Range for 6½ years till ~~xh~~ last November 1927. Hirehalli belongs to Chellakere. It has got a school. I know accused. He was assistant master at Hirehalli. I remember to have gone to Hirehalli in the month of March 1927. I was put up in the school. I went there at 8 P.M. that day and left the place early morning at 4 A.M. The accused was in the school to see me and delivered tappals to me at 10 P.M. he being the postmaster. He took permission of me saying ~~xh~~ somebody was calling him. There was a person to call him. I did not see him later after he left me. My diaries are in Chellakere Range.

X Exmn.- I don't remember whether it was moonlight or not. About 3 or 4 teachers were with me in the school. Some teachers of Thimmappayyanahalli too were there. Of those present one ~~belong~~ belonged to Hirehalli i.e. the Headmaster. I don't know who called the accused. He was outside. I could not see the person who called. The person who called him was saying (Bara Beku) I had taken a bullock cart. I did not take anything (fodder) in that village.

Re. Exmn. My servant was looking after my bullocks & cart.

The witness add, that his writer was with him.

R.O.A.C.

Sd/ V. Dwarakanath,

14/6.

True copy

Sd/ Illegible V.C.

First Magistrate,

Chitaldrug.

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Deposition of Yekanthiah XI Witness for Defence.

Father's name Ajjappa.

Age 25.

Caste Lingayet.

Occupation Agriculture and school master.

Residence Hirehalli.

Duly Sworn

I was at Thimmappayyanahalli in 1927 March. I was school-master. The Asst. Inspector had come to Hirehalli in the month of March. He was put up in the school building. I went there at about 8. 8-30 P.M. There the officer, his writer, Doddayya, myself and another school master of Bukkambudi were there. I was talking to the officer. Gangappa came to call Doddayya accused. The accused was saying that he would go after attending to the post. He was wanted at Gangappa's house. Again another monegar came to call him. Monegar is Sanniah After this I went away. I am a native of Hirehalli.

X Exmn. I was living at Thimmappayyanahalli. I took food in my house at Hirehalli that night. Gangappa was outside the door. I could see the man. " [illegible] I don't know if it was a moonlight or not. When Sannaga came all the persons [illegible] He was also there below the steps. He also called " [illegible] " for which the accused also replied " [illegible] He was not present when I left the place. Sanna left ¼ hour prior. When I went to the school the officer had already come. I am not of one of the Naiker party. There was a criminal case against me. I don't remember if the accused was a ~~witness~~ witness on my behalf then.

Re. Exmn.

The case against me was 6-7 years ago. I cannot say definitely.

R.O.A.C.

Sd/ V. Dwarakanath,

14/6-

True copy

Sd/ [illegible]

First Magistrate, V.N.A.

Chitaldrug.

In the Court of the Special First Class Magistrate,

Chitaldrug,

Dated this 12th day of October 1928.

Present:-

V. Dwarakanath, Esquire, B.A., B.L.,
Special First Class Magistrate,
Chitaldrug.

Complainant
Government

Vs.

C.C. No.12/27-28
Accused
Doddiah.

Judgment.-

The police of Chellakere taluk placed a charge sheet against the accused for an offence under 451 I.P.C. before the Second Class Court on 31st March 1927.

2. The facts of the case as per charge sheet are: that the the accused entered the house of the complainant on the night of 15th March 1927, at an unusual hour in order to commit theft and was caught red handed while he was in the act of escaping from the house.

3. That Magistrate discharged the accused.

4. Against this order a revision petition was presented before the District Magistrate who ordered that there being a prima facie case for charging the accused referred the case to this Court for further enquiry.

5. The Chief Court also confirmed the said order.

6. The records were received in this Court on 16-8-27.

7. My predecessor charged the accused for of Sec. 451 I.P.C. and the accused was called upon to enter upon defence. He pleaded not guilty.

8. Further Cross Examnination of the prosecution witness was taken up by me and there the Defence -

9. The prosecution examined 7 witnesses and produced art 1,2,&3. art. 1 being the rope by which the accused was tied down, art, 2

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is the sara and 3 gold coin - these last two being the articles which are stated to have been attempted to be stolen.

10. All the prosecution witnesses speak to the fact of finding the accused in the house of the complainant on the night in question P.W.2 P.W.3 and P.W. 4 being the inmates of the house, they speak to the incidents which led up to the seizure and detention of the accused and to the fact of finding the art 2 and 3. P.W.4 is a boy of 13 years is lucid and he raised the alarm on his foot being trampled with and the rest of the male inmates woke up. He found the accused running away P;W.5 is the neighbour P.W.6 is the Talwar and P.W. 7 is the patel. These found the accused in the house. P.W. 1 is the investigating officer who speaks for the receipt of of the patel report next day. He speaks to the sketch of the house and place where he was found.

11. As regards the theory of theft excepting the inmates there are no direct witnesses and coupled with the fact that art.3 was as admitted by the P.W's thrust into the pocket of the accused, the status of the accused and his relationship with Bur Obiah who is stated to be a prominent person in the village and monied man whom he is helping it may be doubted whether the accused would have gone there to commit theft of such a paltry article which may not worth Rs.30/- or 35/- rupees. But the fact remains that the accused was found in the house at an odd hour and it is also admitted by the accused that he was in the house and hence the accused was called upon to explain his conduct.

12. The accused's theory is that he was invited to go to the house of the complainant in order to mediate and settle some dispute regarding the land purchased both by the complainant and his (accused) uncle Bur Obiah from one Hanumayya and that in connection with this the complainant kept him under wrongful confinement caused hurt to him and foisted up this false case

against

against him. He has also launched a case against the complainant on this conduct of his on the same facts.

13. That case has also been heard by this Court in C.C.132/27-28 and orders have been passed discharging all the four accused today. The evidence in that case for the prosecution is the defence in this case excepting that in this case some more witnesses have been examined on behalf of the accused to show that he was invited by the complainant that night and that in fact he did go there in accordance with the call just previous to the time of the incident.

14. I have discussed in detail the evidence of the witnesses adduced by the prosecution in that case which the same as this for the defence. The evidence for the witnesses there I have found for reasons explained not only not ~~wrongfully~~ weighty but also interested discrepant and untrust worthy and I will deal with the ~~impressed~~ witnesses for the purpose of this case later and that of the official witness P.W.1, ie.e D.W.9 in this case who speaks to the injury found on the body of the accused on the other hand supports the prosecution story.

15. The evidence of D.W.6, D.W.7 , D.W.8, D.W.10,& D.W.11 alone have to be considered now to see how far the theory of the complainant inviting the accused to go to his house is proved.

16. D.W.6 merely speaks to the sale of the land to Bur Obayya 2 years ago and his uncle's son getting the same to Gangappa, P.W.1 in this case. It is in this connection that he was invited. Nothing about the offence or about the accused going to the house of the accused's house is spoken to by this witness.

17. D.W.7 speaks to the complaint lodged by the villagers against the accused D1, D2 is the reply received by him from the Postal Superintendent, D4 is the telegram he received regarding the non-receipt of the tappals from Hirehalli to Chellakere and the accused being tied up. But this witness does not prove which particular person complained against the accused nor is the document intended to prove that the complaint has signed it. If this, as

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the complainant himself admits, that the villagers have complained against the accused to the Postal authorities and that the complainant himself has also signed the petition, is admitted to prove the relationship between the complainant and the accused, it further throw doubt whether such a man could be relied upon by the complainant to intercede in such a matter as the one in question.

18. D.W.8 is the post overseer who received D.5 on 16-3-27. from the Chellakere Post master stating that the mails from Hirehalli were not received that day. He found the accused in the chavadi on the night of the 17th instant and early morning and he woke him up and spoke to him without any body being present there and afterwards he had the accused with him for an hour and a half and he (accused) gave him a statement that day complaining about the conduct of the complainant which he sent to his superior. The document was not easily available but was got after the defence closed the case but opportunity he was given to the defence to let it in later. The witness only supports the fact that the accused was not on duty on the 16th and 17th. He was in the the chavadi and under the surveillance of the Police. He also speaks to the relationship between the accused and the complainant and other villagers.

19. D.W.10 is the assistant Inspector of schools. He states that while he was in the school on the night of the 15th, somebody was calling the accused from outside while the accused was engaged with him. This does not support the accused a great way excepting by way of connecting his theory that there was a call from somebody and by means of other witness he wanted to show that it was the complainant and his man that called him.

20. D.W.11 is another brother teacher who supports the accused. According to him at 8-30 P.M. Gangappa P.W.1 himself came and called the accused. Then Begar Sanna came and went away but this is not so as per the accused own sworn statement before me in the other case.

21.

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21. So that ~~the~~ reading the evidence for the defence in this case and on behalf of the same party in the other case both which have to be read together, I cannot but come to the conclusion that the theory of the accused that he was invited by the complainant is all a ~~night~~ might only set up in order to explain why he was found in the complainant's house at an odd hour. "On the other hand as it is, it is rather difficult to believe that if P.W.2 was anxious to secure the help and intervention of the accused for settlement of a panchayat he or his people would have so far gone out of the way to confine the accused and assault him." P.W.1 also states that the accused complained before him that he had been tied up and beaten by P.W.2 and others for the reason that he he was on friendly terms with P.W.2's wife. But this aspect of the case has not been spoken to by either side before the Court and the defence counsel himself states that this cannot be treated as complaint to the Police.

22. In any case whether on account of the commission of theft or any other offence it is clear that the accused was found in the house of the complainant's house. The theory that he was invited by the complainant has not stood the test even judging by the evidence for the defence witnesses themselves.

23. For the offence under 451 I.P.C. it should only be shown:-

1. That the accused committed house trespass, and
2. That he did so in order to commit an offence punishable with imprisonment.

24. As regards the first point, the fact that he was found in the house at an odd hour is admitted but that it is tried to be shown that he was there by invitation. That theory has fallen down and it is for the accused to show what his intention was. In 37 A 395, the accused was found inside the complainant's house 12 A.M. and when arrested made no statement as to his reasons for being there. (In this case before suit, no witness even his own patel has stated what he then said in justification of his ~~consent~~ conduct much less that he was there by invitation) On being sent up for trial he stated that but could not prove to the satisfaction

of

of the Court that he had an intimacy with a widow living in the house. It was therefore held that the presence of the accused in the house at that hour pointed to a guilty intent and it was to him to Mebut that presumption. The condition there was for Sec. 457 I.P.C. but that was altered to Section 456 I.P.C. In that case the trespasser was 'Gadariya' and the complainant was a Brahmin. The theory that the complainant caught the accused some where inside the house while he was escaping with certain jewels belonging to the complainant's widowed sister. The portion of evidence relating to theft was disbelieved by both Courts and for the purposes of the case the Higher Court omitted it from consideration altogether. This case therefore is on all four with the case before me. Further Xnox J observed in that case "To my mind to hold that of a stranger is found inside a Zenana at 2 in the morning he can escape from the consequences of his action by saying that he came there at the bidding of the wife or other inmate would be a most dangerous doctrine and the act is deserving of a severe punishment."

25. But this view was not accepted in 38 A 517 and on this the Counsel for the accused want to rely - where it was held that though the accused might have known that if discovered in the house his act would be likely to cause annoyance to the owners of the house cannot be said to have intended either actually or constructively to cause such an annoyance. But the facts in the case were different. The intention with which the accused entered the house had been clearly proved and it was therefore only a question whether the accused did not cause annoyance to other inmates.

26. In our own Chief Court, it has been clearly held in 4 Mys L.J. of 190, Nagarathna Mudaliar Vs. Government of Mysore after observing that the Law is conflicting outside the State followed 17 My.C.C.A. 197 where it was held that although there might be no wish to annoy still if annoyance was the natural consequence of the act complained of and if the person who did know that such consequence would flow from his act then he must be held to have acted with the intent to annoy within the meaning of Sec.441 I.P.C. The conviction for 456 I.P.C. was upheld. Whatever might be

be the law outside, I have to follow the settled law of our Chief Court.

27. But the defence raised one another point i.e. the place where the accused was found cannot be considered as a house to bring it within the definition of house trespass. But the place where the accused was found formed a portion of the building enclosed on all sides with a roof in a portion of it and a tin shade in front with an opening into the main building where the ladies and others were sleeping. The complainant himself was sleeping in this portion. Ex.P.2 sketch explains this and finding that porch or portico of a ~~building~~ if enclosed by walls has been considered as part of the building to which it is attached so that an entry therein to punishable as house trespass. So also an entrance hall surrounded by a wall in which there were two doorways without door and which was used for the custody of property as in 1879 PR 10 (quoted at page 2249 from Penal Law 3rdEdn) the argument is not sound. Compounds are not so treated (20 Cr L.24) The defence cannot say that the place where he was found has been proved to be the compound. In fact P.W.3 states that he was sleeping in the building and that he ~~crawled~~ out as soon as his feet were trampled under by a stranger. So that I am not inclined to further argue that point.

28. I have in the foregoing paras omitted to discuss the evidence of the defence Witness D.W.1, D.W.2 , D.W.3, D.W.4, D.W.5. D.W.1 was P.W.7 in the other case. He says that he saw the accused going towards complainant's house accompanied by Gangappa & his son. He is the postal runner. When he went to the post office first he found Chikka Thimmaiah another teacher and accused there when Gangayya's son came and called for the accused. He was told by the accused that he (accused) would be going to him early. It was 9-30 P.M. The boy did not state to which place "[illegible]" When he returned from school after leaving the bedding of the Inspector Gangayya came and took him. ~~Chik~~ Chikka Thimmaiah and another teacher had not ~~xxxx~~ then come.

D.W.2

D.W.2 = P.W. 6. He merely learnt that accused was kept down in Gangayya's house. But he was not allowed to talk to the accused inside and was not allowed even near the house.

D.W.3 = P.W.3 It was dusk. He was asked to call Doddiah which he did. Gangappa was then outside his house standing.

D.W.4 = P.W.8 It was meal time when he was asked to call Doddiah. He found in school. Early morning he was asked by the Patel to bring Talwar Hanuma and all these went to Gangayya's house.

D.W.5 = P.W. 4, Talwar deputed D.W.4 for duty. Early morning he was awaken by D.W. 4. Patel had gone to Gangayya's house in advance.

29. D.W.1 is proved to live on Thippayya's kepile land. D.W.4 he cultivates Bar Obayya's land. D.W.5 - hesitates to say so. D.W.1 does not deny that Thippayya is related to accused but does not know who Gurayya is. As regards these witnesses, a talwar and toti, 2 are village servants 2 are post peons and one is a boy who takes part in a drama in a similar way as the accused - even if those witnesses who have been proved to be untrustworthy, could be believed to have stated the truth in this case. They merely prove that Gangappa was calling in the evening and that accused was proved in the complainant's house early morning. It is D.W.1 who saw the accused going in company with the complainant and his son at about past 9-30 P.M. But if this be true then we have Ex. D6 spoken to by D.W.8 written complaint said to have been made by the accused as early as practicable to his superior and the complaint of the accused filed before the Court in the other case (which states differently that none of these accompanied him(the accused) that he himself went and there in the house of the complainant he questioned them why he was summoned. This the defence counsel explains that it might be that he went without talking to them on this subject but only questioned in the house. This is ingenious and any ordinary man with ordinary common sense would have questioned the complainant immediately when he saw him why there was such repeated calls as he had

that night. But the counsel forgets the one other discrepancy regarding the time at which the accused had calls from different persons for example the deposition of D.W.11 and as contrasted with that of D.W.1.

30. Under these circumstances, I have no doubt that the accused who was found in the complainant's house at an odd hour has failed to explain satisfactorily how he came there. It is not necessary for the prosecution to prove how and by what means the accused entered the house. What intention he had in going there he has not himself made clear. The theory of the prosecution that he came to commit theft is rejected as unreliable. I therefore convict him under Sec. 448 I.P.C. The offence is a grave one and it is certainly annoying the inmates to say the least of it though it may not be to commit any offence punishable with imprisonment. There are also certain other points to be considered in the case.- the caste to which the parties belong, the house at which the man was found and the place set up by the accused. I consider that a severe sentence is called for. I sentence him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.200/- in default of payment of fine the accused to undergo a further period of imprisonment of two months. Out of the fine if recovered Rs.100/- will be paid to the complainant P.W.1. Articles produced in the case will be returned to the complainant P.W.1

In open court,

V. Dwarakanath,

Magistrate. 12.10.28.

True "Copy"

S Baranath
First Magistrate,
Khitalding.

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4th December 1930.

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Law 447-29-4

D.3202

The Director of Public Instruction
in Mysore, Bangalore.

In reply to the correspondence ending with your letter No.A2-3891-249 of 29-30 dated 6th November 1930 regarding the conviction of Doddaiya Assistant Master, Primary School Hirehalli, Challakere Taluk, I have the honor to state that the conduct of the accused leading to his conviction involves grave moral turpitude and fully deserves to be dismissed from service.

I have the honor to be,

Sir,

Your most obedient servant,

For Legal Remembrancer and
Secy. to Govt. Law Deptt.

c.n.

15D

To

The Director of ~~Industries and Commerce.~~ Public Instruction

Sir,

In reply to the correspondence ending with your letter No.A2-3891-219 of 29-30 dated 6-11-1930 re. the conviction of Doddaiya Asst.Master, Primary School, Hirehalli, Challakere Taluk, I have the honour to state that the conduct of the accused leading to his conviction ~~cannot but~~ involves grave moral turpitude and ~~I have no hesitation under the circumstances in holding that the school master~~ deserves to be dismissed from service.

I have etc.,

Legal Asst
Secy.to Govt., Law Dept.,

Appendix F G—1

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat
( )
the 193

Date of issue.....

Signed by.....

st of enclosures.....

Copied by.....

Examined by.....

Section Law
File No. 147-29
Serial No. 6
No.

To

The Director of Public Inst

Sir,

In reply to the Correspondence ending with your letter no. A2-3891-249 of 29-30 dated 6th November 1930 re: the Conviction ~~and liability~~ of Doddaiya Asst master, Primary School, Hirehalli, Challakere Taluk, I have the honour ~~as directed~~ to State that the Conduct of the accused leading to his Conviction cannot but, ~~in any opinion,~~ involve moral turpitude and I have no hesitation under the circs in holding that ~~that accused~~ Doddaiya was guilty ~~of gross moral turpitude~~, and The Schoolmaster deserves to be dismissed from Service

I have the honour to be Sir, Your obedient servant

for Secy to Govt

WD 02559—GPB—25,000—25-6-30

ISD 24/4